

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
FOURTH REGION**

CENTRAL PARKING SYSTEM OF  
NEW JERSEY, INC.<sup>1</sup>

Employer

and

Case 4–RC–20225

HOTEL EMPLOYEES AND  
RESTAURANT EMPLOYEES  
INTERNATIONAL UNION, LOCAL 54, AFL-CIO

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

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<sup>1</sup> The Employer's name appears as amended at the hearing.

5. The Employer, a New Jersey corporation, with an office in Philadelphia, Pennsylvania, operates parking garages in four Atlantic City, New Jersey hotel/casinos: Bally's Hotel & Casino, The Claridge Hotel & Casino, Hilton Hotel & Casino and The Sheraton Hotel & Casino. The Petitioner seeks to represent a unit of the Employer's drivers, lead drivers and cashiers working at Bally's. The Employer takes the position that the appropriate unit must include its drivers, lead drivers, and cashiers at all four of the Atlantic City garages.<sup>2</sup> The Petitioner is willing to proceed to an election in any unit found appropriate. The parties stipulated that all Facilities Managers, Assistant Managers, and Shift Supervisors who work at these garages should be excluded from the Unit as supervisors within the meaning of Section 2(11) of the Act.

The Employer's Senior Operations Manager, David Grimley, runs the Employer's operation at The Claridge and oversees operations at the three other Atlantic City garages, each of which has a Facilities Manager. Grimley, whose office is at The Claridge, reports to the District Manager Debra Fogel. The Facilities Managers and Assistant Manager Chris Nulton report to Grimley. The Employer's other Assistant Managers report to their respective Facilities Managers. The Shift Supervisors report to the Assistant Managers.

The Employer employs seven or eight Shift Supervisors, 13 drivers, 19 cashiers, one clerical employee and Assistant Manager Nulton at The Claridge. Nulton's duties are similar to those of the Facilities Managers at the other three garages. Michael Sannino is the Facilities Manager at Bally's, where there are two Assistant Managers, seven shift Supervisors, two clerical employees 55 drivers, and 35 cashiers. At the Hilton, there is a Facilities Manager, five traffic controllers, 55 drivers and 35 cashiers. At the Sheraton, there are five managers/supervisors, including a Facilities Manager, 10 drivers and five cashiers. According to Bally's Lead Driver Sam Papiano, Facilities Manager Sannino and/or the supervisor on duty handles the day to day supervision of the Bally's employees. Grimley visits each location daily and communicates telephonically with each location several times each day. The four garages are within a mile and half of each other. The Claridge and Bally's are located across the street from each other.

The Employer has separate contracts with each of the four Atlantic City hotel/casinos. The Employer has provided services at Bally's since 1998; the Claridge since 1997; the Hilton since 1998; and the Sheraton since October 2000. Grimley and Fogel negotiated these contracts.

The Employer's human resources and labor relations functions are performed at the Employer's Philadelphia office. Grimley performs the accounting duties for all four locations and communicates needed information to the controller in Philadelphia. Payroll information is gathered at Grimley's office and sent to the office of the Employer's parent corporation in Tennessee. Employees pick up their paychecks at their respective work locations. Benefits are administered through the corporate office. Purchasing functions for each of the four locations is performed by Grimley.

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<sup>2</sup> There are approximately 225 employees in the four garage unit proposed by the Employer.

The Employer mails employee handbooks prepared by the parent corporation to each employee at all four Atlantic City garages at the time they are hired. Corporate-wide policies and procedures are also distributed to the employees. Employees have access to a Tennessee phone number to report claims of harassment. Such claims do not need to be reported to a site manager. Grimley is responsible for assuring that the Employer's policies and procedures are followed at each of the four Atlantic City garages.

Facilities Managers have the authority to suspend employees pending an investigation. When termination of employment is contemplated, these Managers advise Grimley of the situation and provide him with necessary information. Grimley has the authority to discharge employees after consulting with the Human Resources department. According to Grimley, the Facilities Managers have authority to discipline employees, but often consult with him on more difficult situations to assure uniformity. Grimley estimated that he becomes involved in about 80% of the suspensions and other disciplinary actions. The Employer maintains a point system for attendance at each location. Once an employee reaches the point limit, the Facilities Manager recommends termination. Bally's has a 10-point limit, and the Claridge and the Sheraton have 12-point limits.<sup>3</sup> The Assistant Managers at the garages appear to be responsible for maintaining the point system.

Facilities Managers have the authority to hire employees without consulting Grimley. Grimley also retains the authority to hire.<sup>4</sup> When seeking new employees, the Facilities Managers normally consult with Grimley to check for existing employment applications before placing advertisements in area newspapers. The advertisements do not seek employees for any specific garage, and applicants sought through these advertisements are instructed to call Grimley's office phone number. These applicants interview at Grimley's office. Others interview directly with the Facilities Managers at the other garages.

Drivers park and retrieve cars for patrons of the hotel/casinos. According to lead driver Papiano, Lead Drivers train new employees, jump start cars, park cars, and search for lost cars. Cashiers are responsible for collecting the \$2.00 parking fee and for dispatching vehicles. The duties of the employees at all four of the locations are the same, as is the training. For the drivers, training consists of teaching the employees to complete parking tickets, survey the cars' contents, safely park the cars and to lock their doors. Generally, employees receive training at the garage to which they will be assigned, as the layout of each varies.<sup>5</sup> Cashiers are also trained by other cashiers at their respective sites although the training is the same at each location.

The drivers and cashiers work eight-hour shifts. Preparation of the schedule is performed by each Facilities Manager and submitted to Grimley for review. Occasionally, Grimley will recommend that the Facilities Manager make changes to the schedule. For example, Grimley may decide that a certain location should have more drivers scheduled for a particular shift. While Grimley has the final authority to change a schedule, the record does not show the

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<sup>3</sup> Grimley was unsure about the point limit at the Hilton.

<sup>4</sup> There is no record evidence concerning the percentage of hiring performed by the Facilities Managers or Grimley.

<sup>5</sup> The employees at The Sheraton, however, are trained at The Claridge, an aberration which is unexplained in the record.

frequency of his changes. Seniority lists are maintained at each site, where they are used to establish shift preferences. According to Papiano, employees call out by telephoning the Facilities Managers at their garages, or the managers on duty at the site at that time.

All employees, at each location who work over 36 hours per week are entitled to benefits. The benefits are the same for all the Employer's Atlantic City employees and involve medical insurance, a 401(k) plan, dental insurance, vision insurance, life insurance, profit sharing and jury pay. The drivers hourly wage rates at The Claridge, The Sheraton, and the Hilton start at \$5.50. The drivers at Bally's start at \$5.15. Drivers at each location also receive tips. The cashiers start at \$6.70 per hour at all four locations. Changes in employees' wage rates would be made by Grimley in consultation with Fogel. In the event that such increases occur, the hotel/casinos are advised, since their costs increase. Employees at Bally's are given step wage increases every two years, but employees at the three other garages are given merit increases after one year. The decision to provide a merit increase is made by the management team at each of the three garages.<sup>6</sup>

There are temporary transfers of drivers between the four garages typically lasting from one to three hours. From the week ending March 4, 2001 to the week ending May 27, 2001, 28 drivers were temporarily transferred.<sup>7</sup> Three of these transfers were from Bally's to another garage and all of these occurred on a single day. During another 5 week period, from November 5, 2000 to December 10, 2000, there were 23 such temporary transfers. Five of the 23 went from Bally's to another location and one was transferred from another location to Bally's. These transfers became necessary when there was a special event at one of the hotel/casinos or the location was especially busy. Grimley estimated this need could arise as often as twice a week. Grimley is contacted either by the Facilities Manager or another supervisor when a particular location needs additional staffing and Grimley calls the Facilities Managers at the other properties to have them send drivers to the location in need.

There are also permanent transfers for both drivers and cashiers. Such transfers occur for several reasons: an employee requests improved working conditions and compensation at a particular location; conflicts occur between employees; promotions; demotions; customer requests; location contract expired; or car accidents. From 1998 to 2000, there were 33 permanent transfers among all four Atlantic City garages: Sixteen were drivers, 13 were cashiers, three were supervisors and one was a clerk. Grimley is responsible for approving these transfers.

There is no history of collective bargaining with respect to employees at any four of the Employer's Atlantic City locations.

It is well-settled that a single location unit is presumptively appropriate for collective bargaining. *D&L Transportation, Inc.*, 324 NLRB 160 (1997); *J&L Plate*, 310 NLRB 429 (1993), citing *Dixie Belle Mills*, 139 NLRB 629, 631 (1962); *Bowie Hall Trucking*, 290 NLRB

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<sup>6</sup> There is no evidence in the record as to the identity of the "management team." Grimley did testify that he is usually only a part of the team to make these decisions at The Claridge.

<sup>7</sup> There is no evidence that cashiers are ever transferred temporarily.

41, 42 (1988). The presumption in favor of a single location unit can be overcome by a showing of functional integration so substantial as to negate the separate identity of a single facility unit. *Courier Dispatch Group*, 311 NLRB 728 (1993); *Globe Furniture Rentals*, 298 NLRB 288 (1990); *Esco Corp.*, 298 NLRB 837, 839 (1990). To determine if the presumption has been rebutted, the Board looks to such factors as centralized control of labor relations, including the extent of local autonomy; similarity in employee skills, functions and working conditions; degree of employee interchange; distance between locations; and bargaining history, if any. *Esco Corp.*, supra, 298 NLRB at 839; *Sol's*, 272 NLRB 621 (1984). The burden is on the party opposing a petitioned-for single location unit to present evidence to overcome the presumption. *J&L Plate*, supra, 310 NLRB at 429; *Red Lobster*, 300 NLRB 908, 910–911 (1990). The statute does not require that a unit for bargaining be the only appropriate unit or even the most appropriate unit. Rather, the Act requires only that the unit be *an* appropriate unit. *Morand Bros. Beverage*, 91 NLRB 409, 418 (1950), enf'd. on other grounds 190 F.2d 576, 28 LRRM 2364 (7th Cir.1951). Thus, the unit sought by the Petitioner is always a relevant consideration. *Overnite Transportation*, 322 NLRB 723, 723–724 (1996); *Lundy Packing*, 314 NLRB 1042, 1043 (1994); *Dezcon, Inc.*, 295 NLRB 109, 111 (1989).

I find that the Employer has not overcome the presumption that the single facility unit comprised of the Employer's drivers and cashiers at Bally's is an appropriate one. The record shows that the employees at the Bally's location are primarily supervised by Bally's Facilities Manager Sannino and his on-duty supervisors. Sannino and on-duty supervisors provide the Bally's employees with their day to day directions, oversee their daily performance and process their requests for time off. The Employer claims that Grimley himself is significantly involved in the daily supervision of the drivers and the cashiers at Bally's, and at the other garages. The record does show that Grimley visits each site every day, but there is no evidence as to the duration of these visits and he provides only occasional direction to a Bally's cashier or drivers and only when he happens to be at that garage. In addition, the Facilities Manager has the authority to hire employees and to impose minor discipline, including suspensions, on them. Employees call the individual garages when they will miss work. These factors support the conclusion that the Facilities Manager at Bally's possesses sufficient local autonomy to find the single location unit there is an appropriate one. *Rental Uniform Service, Inc.*, 330 NLRB No. 44, slip op at 2 (1999). The driver's starting wage rate at Bally's is 35 cents lower than at the other garages. Bally's employees receive step increases whereas employees at the other garages receive merit increases. Garage seniority impacts employee shift preference, further supporting the finding that a single location is appropriate. *D&L Transportation, Inc.*, supra, 324 NLRB at 160. The fact that Grimley approves all terminations of employment, has some involvement in discipline, and reviews the scheduling, is not sufficient to overcome the presumption. *Id.*<sup>8</sup>

Finally, although there is employee interchange, it is not sufficient to overcome the presumption given the number of employees in the petitioned-for and proposed units. While Grimley testified that temporary transfers occur twice a week, it is clear from the Employer's

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<sup>8</sup> The Employer argues that the instant case is similar to *Point Pleasant Foodland*, 269 NLRB 353 (1984) and *Globe Furniture Rentals, Inc.* supra, where the single location presumption was rebutted, in that the local managers in those cases, lacked substantial autonomy. However in both of the cited cases, unlike the instant case, the local managers lacked authority to hire and to discipline employees. Further, in *Globe*, the Board found that the presumption was rebutted based on a finding of substantial interchange, a factor lacking here as explained below.

evidence, that temporary transfers do not routinely affect the Bally's employees. During the most recent 12-week period described in the record, only three employees, out of a work force of 90, were temporarily transferred from Bally's to another location. All three of these transfers occurred on the same day. There is no evidence that any employees from other locations were transferred to Bally's during this time. During a separate and more remote five-week period, five Bally's employees were transferred to other locations, and one employee from another location was transferred to Bally's. These transfers occurred on only 3 days. Thus, the totality of temporary transfers at all four Atlantic City garages demonstrates that during the 12-week period, only 28 employees transferred, and during the 5-week period, only 23 employees transferred. This represents a rate of ten to fifteen percent of the unit proposed by the Employer. Given this relatively small number of temporary transfers affecting the employees at Bally's and throughout the proposed unit, and the short duration of such transfers (one to three hours), the record evidence does not disclose that the temporary transfers are sufficiently regular or substantial to overcome the single location presumption. See *New Britain Transportation Co.*, 330 NLRB No. 57, slip op. at 2 (1999) and cases cited therein; *Red Lobster*, supra, 300 NLRB at 911. Permanent transfers, a less significant indication of actual interchange, are also insufficient to warrant a different conclusion. *Red Lobster*, supra, 300 NLRB at 911. The Employer's evidence discloses that over a three-year period, only three employees out of 90 employees in the petitioned-for unit, and only 33 out of 225 in the unit proposed by the Employer, received permanent transfers. Based on the foregoing, I find that employee interchange is not sufficient to overcome the presumption. *New Britain Transportation Co.*, supra at slip op. 2; *D&L Transportation, Inc.*, supra, at 162; *Red Lobster*, supra, at 911.

The Employer argues that the short geographical distance between the garages supports its argument that only a multi-site unit is appropriate. However, the evidence of relatively insubstantial interchange and the lack of meaningful contact between employees at these four garages diminishes the significance of the distance between the facilities. *J&L Plate*, supra at 429.

Based on the foregoing, I find that the record does not establish that the Bally's facility has been so effectively merged with the other three Atlantic City garages or that these four facilities are so functionally integrated that the unit at Bally's has lost its separate identity. The presumptive appropriateness of the petitioned-for Bally's unit has not been overcome. Accordingly, I find that the following unit sought by the Petitioner is an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time drivers, lead drivers, and cashiers employed by the Employer at its facility located at Bally's Hotel & Casino, Atlantic City, New Jersey facility, excluding all other employees, office clerical employees, guards and supervisors as defined in the Act.

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued

subsequently,<sup>9</sup> subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

**HOTEL EMPLOYEES AND RESTAURANT EMPLOYEES  
INTERNATIONAL UNION, LOCAL 54, AFL-CIO**

**LIST OF VOTERS**

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the **full** names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region Four within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. I shall, in turn, make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, 615 Chestnut Street, Seventh Floor, Philadelphia, Pennsylvania 19106, on or before **July 25, 2001**. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission. Since the list is to be made available to all parties to the election, please furnish a total of **3 copies**, unless the list is submitted by facsimile, in which case no copies need be submitted. To speed preliminary checking and the voting process itself, the names should be alphabetized (overall, or by department, etc.). If you have any questions, please contact the Regional Office.

**RIGHT TO REQUEST REVIEW**

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<sup>9</sup> Your attention is directed to Section 103.20 of the Board's Rules and Regulations, a copy of which is enclosed. Section 103.20 provides that the Employer must post the Board's official Notice of Election at least three full working days before the election, excluding Saturdays and Sundays and that its failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed.

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, Franklin Court, 1099 14th Street, N.W., Room 11613, Washington, D.C. 20570. This request must be received by the Board in Washington by **August 1, 2001**.

Signed: July 18, 2001

at Philadelphia, PA

/s/

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DANIEL E. HALEVY

Acting Regional Director, Region Four

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